



GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Water Rights

KENT L. JONES  
State Engineer/Division Director

## ORDER OF THE STATE ENGINEER

FOR STREAM ALTERATION APPLICATION NUMBER **13-57-06SA**  
IN THE NAME OF PACIFICORP ENERGY FOR ALTERATION TO BIG COTTONWOOD  
CREEK IN SALT LAKE COUNTY, UTAH

This **ORDER** is issued pursuant to statute and in accord with the statutory criteria for approval of a stream alteration application that are described at UTAH CODE ANN. § 73-3-29. The State Engineer has determined that this application does meet the necessary legal criteria to **ORDER** the approval of the application based upon the following information and reasoning set forth in the Findings of Fact and Discussion.

### FINDINGS OF FACT

1. The application was received by the Division of Water Rights ("Division") on February 5, 2013, and made available for comment on the Division's webpage, provided to pertinent governmental agencies, and to other entities as warranted, for a period of 20 calendar days, said period concluding prior to February 26, 2013.
2. The application contains the following information:
  - The stated description of the proposed project is: To place rock riprap within the channel and adjacent to an existing spillway associated with Big Cottonwood Creek in Salt Lake County.
  - The stated purpose of the proposed project is: To repair damage sustained during high flow and to prevent scour.
3. A site visit was not conducted by Division personnel.
4. The Division received comments or objections on the proposed project from:
  - Doug Sakaguchi – Utah Division of Wildlife Resources
  - Timothy Witman – U.S. Army Corps of Engineers
  - Tracie Kirkham – Salt Lake City Corporation

The comments or objections received by the Division are summarized as follows:

- The Utah Division of Wildlife Resources has reviewed the application and requests that all heavy equipment brought on site be cleaned of dirt and debris before entering and leaving the project site in order to minimize the spread of noxious weeds and aquatic invasive species.
- The U.S. Army Corps of Engineers has reviewed the application and determined that the proposed project meets the terms and conditions for approval under Programmatic General Permit 40.





- Salt Lake City Corporation has reviewed the application and offers the following comments:
  - This project lies within Salt Lake City's Watershed Area as defined under Salt Lake City Watershed Ordinance 17.04 and Salt Lake Valley Health Department Rules and Regulations #11.
  - Big Cottonwood Creek is a primary source of drinking water for the Salt Lake Valley. The Big Cottonwood Water Treatment Plant is located at the mouth of the canyon. Disturbance to the channel has the potential to release sediment into the downstream reaches. Please notify the Big Cottonwood Treatment Plant at 801-943-1108 seven days in advance of the work being conducted.
  - Salt Lake City requests that the applicant use and properly install Best Management Practices in order to protect and minimize the amount of sediment that may be transported downstream during the construction, as they have stated in their application.

### **DISCUSSION**

1. Based on a review of the Division's water rights records and/or a review of the application by personnel of the Division's regional office, it is the opinion of the State Engineer that the project will not impair vested water rights.
2. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily affect recreational use or the natural stream environment.
3. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily endanger aquatic wildlife.
4. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
5. Other comments or concerns submitted by interested persons or parties are not believed to be within the purview of the State Engineer in evaluating an Application to Alter a Natural Stream.

### **ORDER**

Stream Alteration Application No. **13-57-06SA**, submitted in the name of PacifiCorp Energy, applicant, in order to place rock riprap within the channel and adjacent to an existing spillway associated with Big Cottonwood Creek, a natural stream located in Salt Lake County, Utah, is hereby APPROVED, contingent upon the conditions outlined in this **ORDER**. This approval also constitutes compliance with Section 404 (e) of the Clean Water Act (33 USC 1344) pursuant to General Permit 040 issued to the State of Utah by the U.S. Army Corps of Engineers on January 3, 2011. The applicant is hereby authorized to conduct the work detailed in the application and supporting documentation, as described in this **ORDER**. Any modification or addition to the work may require additional authorization and/or application resubmittal.



1. The expiration date of this order is **February 26, 2015**. Work affecting the bed and/or banks of the stream may not be conducted after this date. Extension of the order is subject to reverification by the U.S. Army Corps of Engineers and review by the Division. A request for extension must be submitted in writing to the Division and include an explanation for project delay. The request must be submitted at least 30 days prior to expiration of the order.
2. A copy of this order must be kept onsite at any time the work authorized under this order is in progress.
3. Salt Lake City requests that the applicant contact the Big Cottonwood Treatment Plant (801-943-1108) at least seven days prior to the initiation of work.
4. Work must be accomplished during a period of low flow. Sediment introduced into stream flows during construction must be controlled to prevent increases in turbidity downstream. Flows must be diverted away from the construction area using a non-erodible cofferdam or other means of bypass.
5. Impacts to the stream channel and surrounding environment must be minimized. Vegetation should not be destroyed, but if some disturbance is necessary, then revegetating with native species will be required, especially in the case of woody shrubs. The channel contours and configuration must not be changed except in the case of bank contouring for stabilization purposes.
6. If historical or archaeological resources such as human remains (skeletons), prehistoric arrowheads/spear points, waste flakes from stone tool production, pottery, ancient fire pits, historical building foundations/remains, historical artifacts (glass, ceramic metal, etc.) are found during construction, the permit holder is advised to cease work and contact the Division of State History at 801-533-3555.
7. The applicant must maintain existing stream shade on all Class 3 A streams. Destruction of any stream shade vegetation within the project area must be replaced at a 1:1 shade ratio at mature life stage with native vegetation along a Class 3 A stream. If stream shade vegetation is to be removed, the applicant must submit an estimate in their restoration plan of the portion of the water surface area within the project area that is shaded by estimating areas with no shade, poor shade, and shade prior to the commencement of work. Time of the year, time of the day, and weather can affect your observation of shading. Therefore, the relative amount of shade is a professional best-guess estimate. Ideally the applicant would be measuring when the sun is at an angle that provides maximum stream shade and the vegetation is in full leaf-out. As noted in General Condition #6 of PGP 40 the destruction of mature trees is to be avoided to the maximum extent possible and the permittee is ultimately responsible for revegetation success.
8. Equipment should work from the top of the bank or from the channel to minimize disturbance to the riparian area and to protect the banks. Heavy equipment should avoid crossing and/or disturbing wetlands.



9. Riprap must consist of only clean, properly sized angular rock, which must be keyed deeply into the streambed to prevent undercutting. A filter must be placed behind if necessary (i.e., if soils are fine grained, non-cohesive, and/or erodible). Demolition debris or refuse will not be allowed, nor material such as bricks, concrete, asphaltic material [either natural (tar sand, oil shale, etc.) or man-made].
10. Fill materials should be free of fines, waste, pollutants, and noxious weeds/seeds.
11. Machinery must be properly cleaned and fueled offsite prior to construction.
12. Excavated material and construction debris may not be wasted in any stream channel or placed in flowing waters, this will include material such as grease, oil, joint coating, or any other possible pollutant. Excess materials must be wasted at an upland site well away from any channel. Construction materials, bedding material, excavated material, etc. may not be stockpiled in riparian or channel areas.
13. Best Management Practices should be implemented and maintained during any streamside or instream work to minimize sedimentation, temporary erosion of stream banks, and needless damage or alteration to the streambed.
14. Approval of this application does not authorize trespass, easements, rights-of-way, or any other access and land use permits. It is the responsibility of the applicant to obtain any such authorizations as may be necessary for this proposal.
15. Within 30 days after the completion of this project, the attached compliance certification form must be completed and returned to the U.S. Army Corps of Engineers. Failure to return this compliance certification form would invalidate U.S. Army Corps of Engineers General Permit 040, thereby placing the applicant in violation of Section 404 of the Clean Water Act.

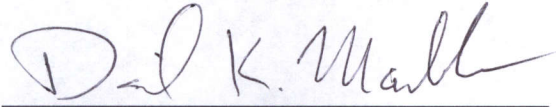
Your contact with the Division is Chuck Williamson, who can be reached at telephone number 801-538-7404.

This **ORDER** is subject to the provisions of UTAH ADMIN. CODE R. 655-6-17 of the Division of Water Rights and to UTAH CODE ANN. §§ 63G-4-302 and 73-3-14, which provide for persons or parties with legal standing to file either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this **ORDER**. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this **ORDER**, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken within 20 days after the Request is filed.



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Dated this 26<sup>th</sup> day of February, 2013.



David K. Marble, P.E.  
Assistant State Engineer

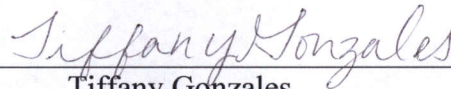
Enclosure

Mailed a copy of the foregoing Order this 26<sup>th</sup> day of February, 2013, to:

EVE DAVIES  
PACIFICORP ENERGY  
1407 W. NORTH TEMPLE  
SALT LAKE CITY UT 84116

Corps of Engineers  
Teresa Wilhelmsen - Regional Engineer  
Richard Clark - EPA  
Mark Farmer - Wildlife Resources  
Doug Sakaguchi - Utah Division of Wildlife Resources  
Tracie Kirkham - Salt Lake City Corporation

By:



Tiffany Gonzales  
Secretary